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**Fifth Committee**

**Summary record of the 46th meeting**
Held at Headquarters, New York, on Monday, 8 March 1999, at 10 a.m.

*Chairman*: Mr. Abelian ..... (Armenia)
*later*: Mr. Armitage (Vice-Chairman) ..... (Australia)
*Chairman of the Advisory Committee on Administrative and Budgetary Questions*: Mr. Mselle

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Organization of work

Agenda item 112: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

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*The meeting was called to order at 10 a.m.*

**Organization of work** (A/C.5/53/L.37 and L.38)

*The meeting was suspended at 10 a.m. and resumed at 10.10 a.m.*

*Status of documentation* (A/C.5/53/L.37)

1. **Mr. Acakpo-Satchivi** (Secretary of the Committee) updated the Committee on the status of documentation.

*Proposed programme of work* (A/C.5/53/L.38)

2. **Mr. Barnwell** (Guyana), speaking on behalf of the Group of 77 and China, expressed concern over the growing tendency among some members of the Committee to blame the Group of 77 and China for the lack of progress on certain items. In that connection, he recalled the unwarranted remarks that had been made by a group of Member States, which had accused the Group of 77 and China of inconclusive negotiations on a certain agenda item when in fact only the Group of 77 and China had put forward proposals on the issue. The Group of 77 and China had also noted with deep concern the undiplomatic and impolite remarks which one delegation had made to the local media about some developing countries. Such an attitude was neither acceptable nor conducive to the success of the Committee's work.

3. With regard to the Committee's proposed programme of work, he wished to reiterate his concern over the late submission of documents, which disrupted the Committee's smooth functioning and should therefore be addressed by the Secretariat. He noted further that a number of reports had not been submitted in accordance with General Assembly resolutions 52/214 B and 53/208 B and would welcome from the Secretariat an explanation of the reasons for its failure to comply with the General Assembly's decisions on the format of reports originating in the Secretariat.

4. The Committee should allocate sufficient time to the agenda items on human resources management, procurement reform and budget-related issues, including the Development Account, gratis personnel, scale of assessments and review of the implementation of General Assembly resolution 48/218 B. That objective could be attained through better organization of the Committee's programme of work. Meetings should not be fragmented and too many items should not be clustered together in one meeting.

5. The Committee should begin its consideration of the issue of procurement reform and defer consideration of outsourcing practices until it received the comments of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) on the relevant report of the Secretary-General.

6. **Mr. Stein** (Germany), speaking on behalf of the European Union, said that the proposed programme of work was overloaded and did not devote adequate time to priority issues. Some streamlining was therefore necessary if the Committee wished to achieve tangible results. In the past, a great deal of time had been spent on items which had had no realistic chance of being concluded. The guiding principle should therefore be that an agenda item should be opened for discussion only if there was a realistic chance of achieving a meaningful result.

7. Turning to specific items, he noted that the Committee on Contributions had met in special session the previous month and that its report should be considered before the Committee took up its consideration of item 118, on the scale of assessments. Revised estimates were needed before the Committee took up item 141, on the financing of the United Nations Missions in Haiti. The sub-item on the Integrated Management Information System (IMIS) was an important one, since the System needed additional funding. Item 119, on human resources management, was also important and more time should be allocated to it in the Committee's proposed programme of work. Under item 112, there was no need to consider together the issues of procurement reform and outsourcing. The documentation on procurement reform had already been introduced in the first part of the fifty-third session and informal consultations on the issue could therefore begin immediately. On the other hand, the report of the Secretary-General on outsourcing had not yet been introduced and that report and the related report of ACABQ should therefore be introduced at a later stage during the current part of the resumed session.

8. The Committee had already spent a considerable amount of time and effort on the issue of the Development Account (item 113). The positions of the various delegations, however, remained far apart and it might therefore be useful for the coordinator of the item to explore the chances of agreement and to suggest on that basis how much time should be allocated to the item.

9. Conceptually, the positions of the various delegations on the review of the implementation of General Assembly resolution 48/218 B (item 145) were also far apart and, there again, the coordinator of the item should explore the possibility of agreement before a decision was made on how much time should be allocated to the item.

10. With regard to the item on pattern of conferences (item 117), the report of the Joint Inspection Unit (JIU) on publications should be finalized and, if time allowed, taken up by the Committee towards the end of the current part of the resumed session. Not much time would be needed to consider the various reports of the regional groups on conference services in Nairobi. Finally, the issue of economy measures in conference services should first be taken up by the Committee on Conferences before it was considered by the Fifth Committee.

11. **Mr. Watanabe** (Japan), said that, in view of the limited time available, the Committee should consider only the most urgent items, such as human resources management, the Development Account, financing of the United Nations peacekeeping operations, and the scale of assessments. He agreed with the representative of Germany that the coordinators of the items on the Development Account and the report of the Secretary-General on the activities of the Office of Internal Oversight Services (OIOS) should first explore the possibility of reaching a consensus on the items before they were taken up by the Committee in plenary meeting.

12. **The Chairman** suggested that, in order to save time, the Committee should follow the programme of work proposed in document A/C.5/53/L.38 only during the first three days of the current part of the resumed session. The Bureau would review the programme of work for the remaining part of the session, on the basis of the comments that had been made, and submit a revised programme of work for the Committee's approval. If he heard no objection, he would take it that the Committee agreed with his proposal.

13. *It was so decided.*

14. **Ms. Buergo Rodriguez** (Cuba) noted that the first year of the biennium 1998–1999 had ended. It would be helpful to delegations if the Secretary-General could report on the progress achieved in certain specific areas, such as the level of expenditure during the year just ended, the vacancy situation and the status of implementation of paragraphs 17, 87 and 99 of Assembly resolution 52/220.

15. **Mr. Stein** (Germany), speaking on behalf of the European Union, said that the Committee should await the report of ACABQ on procurement reform before it took up its consideration of that item.

16. **The Chairman** said that he would seek the views of the Chairman of ACABQ on the matter.

17. **Mr. Odaga-Jalomayo** (Uganda) said that he was deeply concerned at the proposal made by the representative of Germany on behalf of the European Union that certain items should be opened for discussion only after the coordinators had explored the possibility of reaching consensus. Back-room negotiations were not the right way for the Committee to approach its work. Despite the constraints of time, the Committee must assume its responsibilities and complete certain priority items during the current resumed session.

18. **The Chairman** said that there was no question of taking decisions or altering the Committee's programme of work in back-room sessions and that any agenda item was open for discussion. In order to ensure adequate time for deliberations, he would request conference servicing for evening meetings.

19. **Mr. Stein** (Germany), speaking on behalf of the European Union, said he had not meant to suggest that consultations should be held in the absence of certain delegations but merely that efforts should be made to determine during informal consultations whether agreement could be reached on certain issues in order to assist the Chairman in allocating time to various agenda items under the revised programme of work.

20. **The Chairman** said that all the views expressed would be taken into account in the preparation of the Committee's revised programme of work.

21. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that, unfortunately, the report of the Secretary-General on outsourcing practices (A/53/818) had not yet been issued when he had introduced the report of the Advisory Committee on procurement reform (A/53/692) during the main part of the fifty-third session. The representatives of the Group of 77 and China and of the European Union had proposed that the Committee should defer consideration of the report on outsourcing practices until the Advisory Committee had submitted its recommendations on it. However, the Advisory Committee was currently reviewing peacekeeping operations and the support account. In his view, it would be most appropriate for the Advisory Committee to take up the report in question as part of its consideration of the next budget, which would begin in May 1999. However, if it was the wish of the Fifth Committee, he would ensure that the Advisory Committee considered the report during the current month and submitted its recommendations to the Fifth Committee in May.

22. **The Chairman** announced that Ms. Brennen-Haylock, Vice-Chairman of the Committee, was unable to attend the current resumed session of the Committee owing to her new responsibilities in the Ministry of Foreign Affairs of the

Bahamas. He asked the Secretary to convey to Ms. Brennen-Haylock the Committee's congratulations and best wishes for her continued success.

**Agenda item 112: Review of the efficiency of the administrative and financial functioning of the United Nations**

23. **Mr. Paschke** (Under-Secretary-General for Internal Oversight Services) introduced the report of the Office of Internal Oversight Services on the review of the procurement of Lysol by the United Nations High Commissioner for Refugees (A/52/887). The review had been conducted pursuant to General Assembly resolution 51/231 and had involved consideration of the circumstances and events leading to the procurement of over 1.5 million litres of Lysol at a cost of $2.3 million for distribution to beneficiaries in the former Yugoslavia and the non-distribution and subsequent re-export of about 90 per cent of the disinfectant from Belgrade. In its audit report for the year ending 31 December 1995 (A/51/5/Add.5), the Board of Auditors had reported that the Office of the United Nations High Commissioner for Refugees (UNHCR) had suffered a loss estimated at $3 million because of the host country's retroactive refusal to allow import of the product and had recommended that UNHCR should improve its procedures for needs assessment and undertake more detailed planning and analysis prior to the procurement of bulk commodities.

24. After reviewing the original needs assessment, the Office of Internal Oversight Services (OIOS) had concluded that UNHCR could not have anticipated the Belgrade authorities' refusal to grant clearance for the importation and distribution of Lysol, which was not a banned product in Yugoslavia or in other countries. Moreover, the actual loss incurred by UNHCR had been US$ 2.1 million; the original estimate had not taken into account the fact that about 155,000 of the 1,570,000 litres in question had, in fact, been distributed in the former Yugoslavia and that some of the remainder had been re-exported for use in other UNHCR programmes. While the loss must be considered high by any standard, there was no evidence of negligence on the part of UNHCR and it appeared that UNHCR staff members, both in Belgrade and at headquarters, could not have anticipated the problem and had done their utmost to resolve it.

25. *Mr. Armitage (Australia), Vice-Chairman, took the Chair.*

26. **Mr. Paschke** (Under-Secretary-General for Internal Oversight Services), introducing the report of the Office of Internal Oversight Services on the review of procurement-related arbitration cases (A/53/843), prepared pursuant to General Assembly resolution 52/226, said that there had been a delay in submission of the report owing to the variety of complex issues and large amounts of information involved, the technical and sensitive nature of that information and the need to incorporate comments from different offices and departments. To the extent possible, steps would be taken to prevent such delays in the future.

27. All United Nations contracts contained a standard clause, which provided that contract disputes, unless settled amicably, would be referred by either party to arbitration, in accordance with rules endorsed by the General Assembly. From 1995 to September 1998, legal action had been initiated against the Organization in 12 procurement cases, all related to peacekeeping operations. The review had concentrated on the five cases which had been resolved through arbitration or settlement. Those cases had involved claims totalling US$ 52.6 million and had cost the Organization about $26.7 million in arbitration awards and settlements, legal and arbitration fees of $2.3 million and interest charges of $4.8 million.

28. The review had identified a number of problems which had contributed to the development of contract disputes that must often be resolved through arbitration or settlement: a lack of necessary resources, including civilian procurement personnel; inadequate consultation between Headquarters and mission personnel; failure to comply with procurement rules and procedures and to pay undisputed charges in a timely manner; and a lack of clear contract terms. Although arbitration and settlement awards constituted a relatively small portion of overall procurement costs, they involved substantial additional expense as a result of interest charges, legal fees and staff hours. Arbitration was an unpredictable and costly method of resolving contract disputes and should be avoided to the extent possible.

29. The report included recommendations that peacekeeping missions should be staffed with qualified procurement and contract administration personnel; that clear guidelines on documenting deviations from contracts should be issued; that undisputed payments should be made promptly in order to avoid claims for interest; that unsatisfactory vendor performance should be evaluated and documented; that Headquarters should review all aspects of arbitration and settlement cases to identify lessons learned; and that that information should be disseminated to peacekeeping missions and other key participants in the procurement process. The names of contractors and specific contract designations had not been included in the report because, under the rules of arbitration, such information could not be disclosed without the consent of both parties.

30. **Mr. Niwa** (Assistant Secretary-General for Central Support Services) said that the Secretariat had addressed the basic issues involved in the reform process and was working to ensure compliance with the changes that had been introduced. A new director of the Procurement Division had been appointed and the Division's organization of work had been refined. While its commodity-based framework had been maintained, improvements had been introduced to provide a better response to requisitioners. The financial regulations and rules governing procurement had been revised but had yet to be incorporated into the larger review being carried out by the Office of the Controller. Furthermore, pending the revision of paragraphs (f) and (g) of financial rule 110.19 as called for in General Assembly resolution 52/226, paragraph 18, he had issued a memorandum in April 1998 to ensure that the procurement of professional supplies, medicines, medical supplies, hospital or surgical supplies and prosthetic appliances were no longer exempt from competitive bidding. The Division was consulting with the Office of Legal Affairs with regard to the Advisory Committee's questions on the definition of exigency. Only three such cases had been approved in 1998, and the Division was considering a requirement that the head of the department making the request must provide written authorization for the submission of cases based on exigency to the Committee on Contracts.

31. Turning to concerns raised by Member States during the main part of the fifty-third session, he said that a number of the points raised by the representative of Panama on behalf of the Rio Group had concerned compliance and that every effort was being made to ensure that regulations, rules and procedures were observed and increased use was made of the Procurement Division Web site. However, the Organization lacked the in-house resources to handle food rations for peacekeeping missions.

32. The European Union had correctly identified a number of areas of performance measurement that required additional work. A consultant had been engaged to assist with that problem. Some delegations had proposed that pricing information should be made public during the procurement process; however, it was current United Nations practice not to do so because, since price was not the determining factor in awarding contracts, disclosure of such information would be misleading. However, he agreed that the Organization could do more to explain to unsuccessful bidders why a bid had been unsuccessful.

33. Lastly, the representative of Syria had proposed that the vendor roster should be further expanded to increase representation of suppliers from developing countries. He hoped that use of the United Nations common supplier database would make that possible.

34. **Mr. Herrera** (Mexico), speaking on behalf of the Rio Group, said that no action had been taken on any of the proposals made by the representative of Panama on behalf of the Group during the main part of the fifty-third session. His delegation would endeavour to ensure that the Group's requests were met.

35. **Mr. Saha** (India) said that, although the Assistant Secretary-General for Central Support Services had mentioned increased use of the Procurement Division Web site, some companies had complained that there had been no new postings since August 1998.

36. **Mr. Niwa** (Assistant Secretary-General for Central Support Services), speaking in reply to the representative of Mexico, said that he had prepared a detailed response to the proposals of the Rio Group and looked forward to discussing them with the Committee in informal consultations.

37. There had, in fact, been a problem with the Procurement Division Web site, but it had been solved during the previous week.

38. **Ms. Incera** (Costa Rica) said that she had had no answer to the questions which she had raised during the main part of the session with respect to the company that had been given the contract for the escalators and to the issue of security at Headquarters. She noted the lack of security guards on the second floor at Headquarters and the loss of one of the security guards assigned to the President of the General Assembly. It was essential that the President should be assigned two security guards as in the past. She could not accept the excuse that the reduction had been prompted by a lack of resources since the security canine unit was on duty from 9 a.m. to 5 p.m. daily at an annual cost of $150,000. She wondered whether that contract had been awarded through competitive bidding and, if not, why not. In any case, it was unacceptable to claim that the Organization could afford the services of a security dog but could not adequately protect the President of the General Assembly.

39. Furthermore, during the previous week, the Permanent Representative of Costa Rica had been denied access to an event which had taken place in the Trusteeship Council Chamber on the grounds that the room was already full. The United Nations belonged to its Members, and Permanent Representatives could not be excluded from a meeting to which outsiders had been given entry. Some of the security guards should be given training in the proper treatment of Permanent Representatives.

40. **Ms. Buergo Rodríguez** (Cuba) said that the important issue of security raised by the representative of Costa Rica deserved careful consideration, especially in view of the need for continued monitoring of budget performance for the current biennium. In that regard, General Assembly resolution 52/220, paragraph 99, recognized the importance of the security system and guards in the United Nations and requested the Secretary-General to keep under review the level of resources allocated to that function. The staffing tables contained in that resolution did not reflect a decrease between 1998 and 1999, a fact which made the current reduction in security personnel on duty all the more disturbing.

*The meeting rose at 11.30 a.m.*